

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

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PATRICK E. DUFFY, CLERK

BY _____
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THOMAS KELLEY,)	CV-05-154-BLG-RFC
)	
Plaintiff,)	
)	
vs.)	
)	
)	ORDER ADOPTING FINDINGS
)	AND RECOMMENDATIONS OF
MIKE FERRITER, SHERIFF OF)	U.S. MAGISTRATE JUDGE
DAWSON COUNTY, and)	
CAPTAIN GREEN,)	
)	
Defendants.)	
)	

On March 1, 2007, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends this Court dismiss Plaintiff's complaint with prejudice for failure to state a claim upon which relief may be granted. Magistrate Judge Ostby further recommends the dismissal should count as a strike with regard to the Prison Litigation Reform Act, 28 U.S.C. § 1915(g).

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1).¹ On March 20, 2007, this Court received "Objection to Findings and Recommendation of Magistrate Ostby" from Thomas Kelley. Plaintiff's objections are not well taken.

After an extensive review of the record and applicable law, this Court finds Magistrate

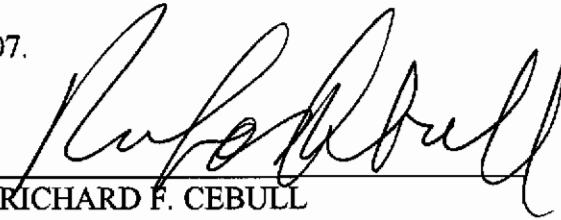
¹In prisoner cases, this Court extends the time to object to twenty days in order to take into account the Supreme Court's ruling in *Houston v. Lack*, 487 U.S. 266, 270-71 (1988), and the somewhat greater mailing time that is involved in sending documents into and out of a prison facility.

Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted. The dismissal shall count as a strike with regard to the Prison Litigation Reform Act, 28 U.S.C. § 1915(g).

The Clerk of Court shall notify the parties of the making of this Order and close this case accordingly.

DATED the 28 day of March, 2007.



RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE